

Application No. 09/836,544
Amendment and Response to Office Action
October 11, 2005

REMARKS

The Specification has been amended to insert sequence identifiers into the descriptions of the figures and to amend the figure descriptions, as required by the Examiner. Claims 1, 5, 7, 15-17 and 19 have been canceled without prejudice. Claim 24 has been amended in accordance with the Examiner's suggestion. A corrected Sequence Listing, in paper and machine readable copies, is provided herewith, together with the requisite Statement under 37 CFR 1.821-1.824. None of the amendments made herein constitutes the addition of new matter.

The Information Disclosure Statement

The Examiner has noted that not all the references listed on the Form PTO-1449 submitted on April 8, 2002 were available in the priority application referenced.

Applicants have provided a further PTO-1449 which lists references believed to be relevant to the present claimed invention together with 31 references. Because there are additional references that were not previously cited, Applicants have included payment of the fee required by 37 C.F.R. 1.17(p) and respectfully petition for consideration of the references provided herewith, in addition to those already considered. The undersigned states on the record that many of the references listed on the Form PTO-1449 filed in April 2002 either relate to subject matter which has been canceled from the claims or to the general state of the art; it is believed that it is not necessary to provide all of the references on the Form 1449. For the Examiner's convenience, a new Form PTO-1449 listing only the references provide herewith or United States Patents is provided herewith.

The Objections to the Specification

The Patent Office has required that corrections of sequence identifiers and references to figures be made in the Specification. Applicants have made corrections to properly reference the sequences and figure numbers in accordance with Patent Office

Application No. 09/836,544
Amendment and Response to Office Action
October 11, 2005

requirements.

The Rejections under 35 U.S.C. 112, second paragraph

Claims 1 and 24 were alleged to be indefinite for lacking a second parenthesis and for the recitation of "substantially pure" cDNA.

In the interest of advancing prosecution and without acquiescing to the rejection, Applicants have canceled claim 1 without prejudice and they have amended claim 24 to recite "an isolated" rather than "substantially pure", in accordance with the suggestion of the Examiner.

In view of the amendments to the claims, Applicants respectfully submit that they are now in compliance with Section 112, second paragraph, of the statute.

The Rejections under 35 U.S.C. 102

Claims 1 and 24 have been rejected as allegedly anticipated by US Patent No. 6,607,879. Applicants respectfully traverse this rejection.

As noted above, Applicants provide herewith a replacement Sequence Listing in which SEQ ID NO:28 has been corrected so that it matches the sequence presented in Table 5 of the as-filed Specification, at page 96. Applicants further note an error in Table 5 which has just been uncovered. The R (Arg) at amino acid 34 is incorrect; it should be A (Ala), for consistency with the coding sequence in the as-filed Table 5. Applicants respectfully note that Table 5 was also present in USSN 07/498,809, filed March 23, 1990, at page 101. The present application claims priority under 35 U.S.C. 119, through a series of successive applications, back to said prior application (USSN 07/498,809 filed March 23, 1990). Accordingly, SEQ ID NO:28, as corrected, is entitled to the March 23, 1990 priority date, the cited patent, which has a February 9, 1998 filing date, is not properly cited as prior art against the instant invention, and the rejection should be withdrawn.

Application No. 09/836,544
Amendment and Response to Office Action
October 11, 2005

Claims 1 and 24 have been rejected as allegedly anticipated by US Patent No. 6,812,339. Applicants respectfully traverse this rejection.

As noted above, Applicants have provided a replacement Sequence Listing in which SEQ ID NO:28 has been corrected so that it matches the sequence presented in Table 5 of the as-filed Specification, at page 96, as corrected. Applicants respectfully note that Table 5 was present in USSN 07/498,809, filed March 23, 1990, at page 101. The present application claims priority, through a series of successive applications, back to said prior application. Accordingly, SEQ ID NO:28, as corrected, is entitled to the March 23, 1990 priority date, and the cited patent, claiming priority only to September 8, 2000, is not properly cited as prior art against the instant invention, and it does not anticipate the present invention. The rejection must be withdrawn.

Conclusion

In view of the foregoing, it is submitted that this case is in condition for allowance, and passage to issuance is respectfully requested.

If there are any outstanding issues related to patentability, the courtesy of a telephone interview is requested, and the Examiner is invited to call to arrange a mutually convenient time.

This response is accompanied by a replacement Sequence Listing Diskette, replacement paper copy of the Sequence Listing, a Statement under 37 C.F.R. 1.821-1.824, a Request for Correction of Inventorship under 37 C.F.R. 1.48(b) and the necessary fee and a Supplemental Information Disclosure Statement with Petition, 31 references and fee due under 37 C.F.R. 1.17(p). A check in the amount of \$430 is enclosed, including \$120 for a one month extension of time, \$130 for correction of inventorship and \$180 for consideration of an Information Disclosure Statement submitted after an Office Action. It is believed that this response does not necessitate the payment of any additional fees under

Application No. 09/836,544
Amendment and Response to Office Action
October 11, 2005

37 C.F.R. 1.16-1.17. If this is incorrect, however, please charge any fees due under the foregoing Rules to Deposit Account No. 07-1969.

Respectfully submitted,



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Attorney Docket No.: 11-88L
sl: October 10, 2005